

TITLE 86: REVENUE
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 316 AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and
 317 authorized by Sections 2505-25 and 2505-795 of the Department of Revenue Law [20 ILCS
 318 2505].
 319
 320 SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978;
 321 amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and
 322 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended
 323 at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective
 324 October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4
 325 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818,
 326 effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5
 327 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3,
 328 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229;
 329 recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982;
 330 amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April
 331 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg.
 332 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended
 333 at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective
 334 November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill.
 335 Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987;
 336 amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138,
 337 effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;
 338 amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg.
 339 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an
 340 objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective
 341 November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency
 342 expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14
 343 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1,

1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of

150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014; amended at 38 Ill. Reg. 17421, effective July 31, 2014; amended at 38 Ill. Reg. 17756, effective August 6, 2014; amended at 38 Ill. Reg. 19998, effective October 1, 2014; amended at 39 Ill. Reg. 1793, effective January 12, 2015; amended at 39 Ill. Reg. 12597, effective August 26, 2015; amended at 39 Ill. Reg. 14616, effective October 22, 2015; amended at 40 Ill. Reg. 6130, effective April 1, 2016; amended at 40 Ill. Reg. 13448, effective September 9, 2016; amended at 41 Ill. Reg. 10721, effective August 1, 2017; amended at 42 Ill. Reg. 2850, effective January 26, 2018; amended at 43 Ill. Reg. 4201, effective March 20, 2019; amended at 43 Ill. Reg. 5069, effective April 17, 2019; amended at 43 Ill. Reg. 8865, effective July 30, 2019; emergency amendment at 43 Ill. Reg. 9841, effective August 21, 2019, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 552, effective December 27, 2019, for a maximum of 150 days; emergency expired May 24, 2020; emergency amendment at 44 Ill. Reg. 2055, effective January 13, 2020, for a maximum of 180 days; amended at 44 Ill. Reg. 5392, effective March 16, 2020; amended at 44 Ill. Reg. 10981, effective June 10, 2020; amended at 44 Ill. Reg. 13975, effective August 11, 2020; amended at 45 Ill. Reg. 352, effective December 21, 2020; amended at 45 Ill. Reg. 7248, effective June 3, 2021; amended at 45 Ill. Reg. 14464, effective November 2, 2021; amended at 45 Ill. Reg. 16058, effective December 3, 2021; amended at 46 Ill. Reg. 6745, effective April 12, 2022; amended at 46 Ill. Reg. 7785, effective April 26, 2022; amended at 46 Ill. Reg. 10905, effective June 7, 2022; amended at 46 Ill. Reg. 15336, effective August 23, 2022; amended at 46 Ill. Reg. 18120, effective October 25, 2022; amended at 46 Ill. Reg. 18827, effective November 1, 2022; amended at 47 Ill. Reg. 1426, effective January 17, 2023; amended at 47 Ill. Reg. 2116, effective January 24, 2023; amended at 47 Ill. Reg. 5751, effective April 4, 2023; amended at 47 Ill. Reg. 6068, effective April 12, 2023; amended at 47 Ill. Reg. 6309, effective April 18, 2023; amended at 47 Ill. Reg. _____, effective _____.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.340 Rolling Stock

- a) *Notwithstanding the fact that the sale is at retail, ~~the Retailers' Occupation Tax does not apply to sales of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce, or lessors under leases of one year or longer executed or in effect at the time of purchase to interstate carriers for hire for use as rolling stock moving in interstate commerce.~~* [35

~~ILCS 120/2-5(12)] In addition, notwithstanding the fact that the sale is at retail,~~
the Retailers' Occupation Tax does not apply to sales of tangible personal
property to owners, lessors, or shippers of tangible personal property that is
utilized by interstate carriers for hire for use as rolling stock moving in interstate
commerce as long as so used by the interstate carriers for hire. [35 ILCS 120/2-
5(13)] This exemption is not only available to purchasers who are interstate
carriers for hire and who otherwise meet the requirements of the exemption, but
also to lessors who lease to interstate carriers who use the property as rolling
stock moving in interstate commerce and to shippers, including~~For example, the~~
~~exemption may also apply to lessors under leases of less than one year's duration~~
and manufacturers, who provide tangible personal property (such as shipping
containers) to interstate carriers for hire when those interstate carriers use that
property as rolling stock moving in interstate commerce.

1) In making an initial determination of eligibility, two conditions that an
item must meet in each instance are:

A) it must transport persons or property for hire; and

B) it must transport persons or property in interstate commerce.

2) The purchase of an item that does not meet both criteria in subsection
(a)(1) is not eligible for the rolling stock exemption under any
circumstances.

b) Definitions. As used in this Section:

"Aircraft" has the meaning prescribed in Section 3 of the Illinois Aeronautics Act.
[620 ILCS 5/1]

"Commercial service or cargo service airport" means land, improvements to land,
equipment, and appliances necessary for the receipt and transfer of persons and
property onto or off of aircraft primarily for interstate or international transport.

"Gross vehicle weight rating" or "GVWR" means the value specified by the
manufacturer as the loaded weight of a single vehicle. [625 ILCS 5/1-124.5]

"Limousine" means any privately owned first division vehicle intended to be used
for the transportation of persons for-hire when the payment is not based on a
meter charge, but is prearranged for a designated destination. [625 ILCS 5/1-
139.1]

"Motor vehicle" means, except as otherwise provided in this Section, a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146]. The term "motor vehicle" does not include aircraft or watercraft.

The term "Rolling Stock" includes ~~the~~ transportation vehicles of any kind used by an~~of~~ interstate transportation company for hire (e.g., railroad, bus line, ~~airline~~~~air~~ ~~line~~, trucking company, barge company, and limousine company~~ete~~), but not vehicles that are being used by a person to transport its officers, employees, customers or others not for hire (even if they cross State lines) or to transport property that the person owns or is selling and delivering to customers (even if the transportation crosses State lines). Railroad "rolling stock" includes all railroad cars, passenger and freight, and locomotives (including switching locomotives) or mobile power units of every nature for moving the cars, operating on railroad tracks, and includes all property purchased for the purpose of being attached to the cars or locomotives as a part of the cars or locomotives. The exemption includes some equipment (such as shipping containers called trailers and shipping containers transferred at intermodal terminal facilities or commercial service or cargo service airports) that ~~is~~~~are~~ used by interstate carriers for hire, loaded on railroad cars or aircraft, to transport property, but that ~~does~~~~do~~ not operate under ~~its~~~~their~~ own power and ~~is~~~~are~~ not actually attached to the railroad cars or aircraft. The exemption does not apply to fuel nor to jacks or flares or other items that are used by interstate carriers for hire in servicing the transportation vehicles, but that do not become a part of the vehicles, and that do not participate directly in some way in the transportation process. The exemption does not include property of an interstate carrier for hire used in the company's office, such as furniture, computers~~typewriters~~, office supplies and the like.

"Trailer" means a trailer as defined in Section 1-209 of the Illinois Vehicle Code; a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code; and a pole trailer as defined in Section 1-209 of the Illinois Vehicle Code.

"Watercraft" means:

Class 2, Class 3, and Class 4 watercraft, as defined in Section 3-2 of the Boat Registration and Safety Act; [625 ILCS 45/3-2]; or

personal watercraft, as defined in Section 1-2 of the Boat Registration and Safety Act. [625 ILCS 45/1-2]

- c) Generally, the~~The~~ rolling stock exemption cannot be claimed by a purely intrastate carrier for hire as to any tangible personal property that it purchases because it does not meet the statutory tests of being an interstate carrier for hire. However, the rolling stock exemption applies to rolling stock used by an

interstate carrier for hire, even just between points in Illinois, if the rolling stock transports, for hire, persons whose journeys or property whose shipments originate or terminate outside Illinois. [35 ILCS 120/2-50].

d) Motor vehicles (other than limousines) and trailers. This subsection (d) sets forth the specific requirements to qualify for the rolling stock exemption for motor vehicles and trailers. This subsection (d) does not apply to limousines. For discussion of the application of the rolling stock exemption to limousines, see subsection (e).

1) Rolling stock test for purchases on or after August 24, 2017. This subsection (d)(1) applies to motor vehicles and trailers (and repair and replacement parts) purchased on or after August 24, 2017 (the effective date of Public Act 100-321).

A) Application of the rolling stock test. For motor vehicles and trailers purchased on or after August 24, 2017, "use as rolling stock moving in interstate commerce" means that:

i) the motor vehicle or trailer is used to transport persons or property for hire;

ii) the purchaser who is an owner, lessor, or shipper claiming the exemption certifies that the motor vehicle or trailer will be utilized, from the time of purchase and continuing through the statute of limitations for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act, by an interstate carrier or carriers for hire who hold, and are required by Federal Motor Carrier Safety Administration (FMCSA) regulations to hold, an active USDOT (United States Department of Transportation) Number with the Carrier Operation listed as "Interstate" and the Operation Classification listed as "authorized for hire", "exempt for hire", or both "authorized for hire" and "exempt for hire"; except that this subsection (d)(1)(A)(ii) does not apply to a motor vehicle or trailer used at an airport to support the operation of an aircraft moving in interstate commerce, as long as (i) in the case of a motor vehicle, the motor vehicle meets the requirements of subsections (d)(1)(A)(i) and (d)(1)(A)(iii) or (ii) in the case of a trailer, the trailer meets the requirements of subsection (d)(1)(A)(i); and

iii) for motor vehicles, the motor vehicle's gross vehicle weight rating exceeds 16,000 pounds. [35 ILCS 120/2-51(d-5)]

B) Repair and replacement parts purchased on or after August 24, 2017 for motor vehicles and trailers. "Use as rolling stock moving in interstate commerce" in this subsection (d)(1) applies to all property purchased on or after August 24, 2017 for the purpose of being attached to a motor vehicle or trailer as a part thereof, regardless of whether the motor vehicle or trailer was purchased before, on, or after August 24, 2017 [35 ILCS 120/2-51(d-5)]. This means that repair and replacement parts purchased on or after August 24, 2017 for the purpose of being attached to a motor vehicle or trailer as a part thereof qualify for the rolling stock exemption if, at the time of purchase of the repair or replacement parts, the motor vehicle or trailer to which the parts will be attached and the purchaser of the repair or replacement parts (or the carrier if the purchaser is not the carrier) meet the requirements of subsection (d)(1)(A), and the purchaser provides a certification to that effect as required in subsection (d)(1)(E), regardless of when the motor vehicle or trailer itself was purchased. For repair and replacement parts for limousines, see subsection (e)(2).

C) If a motor vehicle or trailer (or a repair or replacement part) ceases to meet the requirements under subsection (d)(1)(A), then the tax is imposed on the selling price, allowing for a reasonable depreciation for the period during which the motor vehicle or trailer qualified for the exemption. [35 ILCS 120/2-51(d-5)] Reasonable depreciation shall be determined in accordance with 86 Ill. Adm. Code 150.110.

D) For purposes of this subsection (d)(1), "motor vehicle" excludes limousines, but otherwise means that term as defined in Section 1-146 of the Illinois Vehicle Code.

E) Certification of exemption for motor vehicles and trailers purchased on or after August 24, 2017. To properly claim the rolling stock exemption, the purchaser must give the seller a certification that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce.

i) If the purchaser is an interstate carrier for hire, the purchaser must include in the certification its active USDOT Number issued by the FMCSA. In addition, the

purchaser must certify that its FMCSA Company Operation type is listed as "Interstate". Finally, the purchaser must certify that its FMCSA Operation Classification is listed as "Authorized For-Hire", "Exempt For-Hire", or both "Authorized For-Hire" and "Exempt For-Hire".

ii) The USDOT Number, FMCSA Company Operation type, and FMCSA Operation Classification requirement does not apply to a motor vehicle or trailer used at an airport to support the operation of an aircraft moving in interstate commerce, as long as it otherwise meets the other requirements of the exemption in subsection (d)(1)(A).

iii) If the purchaser is a lessor, the purchaser must give the seller of the property a certification to that effect, similarly certifying the lessee's interstate carrier for hire status (i.e., USDOT Number, FMCSA Company Operation type, and FMCSA Operation Classification).

iv) If the purchaser is an owner or shipper of tangible personal property that will be utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, the purchaser must give the seller of the property a certification to that effect, similarly certifying the interstate carrier for hire status (i.e., USDOT Number, FMCSA Company Operation type, and FMCSA Operation Classification) of the interstate carrier for hire that will utilize the property.

F) If a retailer accepts a certification under subsection (d)(1)(E), this does not preclude the Department from disregarding it and assessing Retailers' Occupation Tax against the retailer if the Department determines that, at the time the retailer accepted the certification, the purchaser, or the carrier identified by the purchaser in cases where the purchaser is not the carrier, did not meet the active USDOT Number, FMCSA Company Operation type, and FMCSA Operation Classification requirements.

G) The giving of a certification under subsection (d)(1)(E) by a purchaser does not preclude the Department from disregarding it and assessing Use Tax against the purchaser if, in examining the purchaser's records (or, in cases where the purchaser is not the carrier, the carrier's records), the Department finds that the certification was not true as to some fact that shows the purchase

was taxable and should not have been certified as being tax exempt. The Department reserves the right to require the purchaser to provide a copy of the purchaser's (or carrier's, in cases where the purchaser is not the carrier) FMCSA documentation whenever the Department deems it necessary.

H) For sales where an active USDOT Number is required, a retailer can confirm whether the carrier meets the Company Operation type and Operation Classification by searching the Federal Motor Carrier Safety Administration's Safety and Fitness Electronic Records (SAFER) System using the carrier's USDOT Number. The information displayed will state whether the carrier's FMCSA Company Operation type is "Interstate" and whether the carrier's FMCSA Operation Classification is "Authorized For-Hire" or "Exempt For-Hire". If the USDOT Number is not active or if one or both of the requirements for FMCSA Company Operation type or FMCSA Operation Classification is not met, the sale does not qualify for the rolling stock exemption.

I) The following examples apply the rolling stock test for purchases of motor vehicles on or after August 24, 2017.

EXAMPLE 1 – Exempt: An interstate trucking company decides to purchase a new truck with a gross vehicle weight rating exceeding 16,000 pounds for its business. The company has been issued a USDOT Number by the FMCSA within the United States Department of Transportation. The company's FMCSA Company Operation type is listed in the SAFER System as "Interstate" and its FMCSA Operation Classification is listed as "Authorized For-Hire". The company completes a RUT-7 Certification Form certifying that it meets the requirements for the exemption and the retailer uses the SAFER System to confirm the certification. The sale is exempt.

EXAMPLE 2 – Not Exempt: A company decides to become an interstate trucking company and purchases a new truck with a gross vehicle weight rating exceeding 16,000 pounds for its business. It has applied for but not yet received a USDOT Number. The purchase of the truck cannot meet the statutory requirements for exemption because the company has not yet been issued a USDOT Number and, therefore, does not have an active USDOT Number at the time of purchase.

EXAMPLE 3 – Not Exempt: A company decides to purchase a new truck with a gross vehicle weight rating exceeding 16,000 pounds for its business. The company has been issued a USDOT Number by the FMCSA within the United States Department of Transportation. The company's FMCSA Company Operation type is listed in the SAFER System as "Interstate". Its FMCSA Operation Classification is listed as "Private Property" (which designates a company that transports only its own cargo). The purchase of the truck cannot meet the statutory requirements for exemption because the company's FMCSA Operation Classification is neither "Authorized For-Hire" nor "Exempt For-Hire."

2) Rolling stock test for purchases before August 24, 2017. This subsection (d)(2) applies to motor vehicles and trailers (and repair and replacement parts) purchased before August 24, 2017 (the effective date of Public Act 100-321). For motor vehicles and trailers (and repair and replacement parts for these items) purchased on or after August 24, 2017, subsection (d)(1) applies.

A) Application of the rolling stock test for motor vehicles purchased before August 24, 2017. A motor vehicle whose gross vehicle weight rating exceeds 16,000 pounds will qualify for the rolling stock exemption if, *during a 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period.* The person claiming the rolling stock exemption for a motor vehicle must make an election at the time of purchase to use either the trips or mileage method to document that the motor vehicle will be used in a manner that qualifies for the exemption. [35 ILCS 120/2-51(c)]

i) If the purchase is from an Illinois retailer, the election must be made on a certification described in subsection (d)(2)(F). If the purchase is from an out-of-state retailer or from a non-retailer, the election must be documented in the purchaser's books and records.

ii) If no election is made as required under the provisions of subsection (d)(2)(A)(i), the person will be deemed to have chosen the mileage method. [35 ILCS 120/2-51(c)]

iii) Once such an election for a motor vehicle has been made, or is deemed to have been made, the method used to document the qualification of that motor vehicle for the rolling stock exemption will remain in effect for the duration of the purchaser's ownership of that motor vehicle. [35 ILCS 120/2-51(f)]

B) Application of the rolling stock test for trailers purchased before August 24, 2017. To qualify for the rolling stock exemption the trailer must, during a 12-month period, carry persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. Except as provided in subsections (d)(2)(B)(i) through (iii), purchasers of trailers must make an election at the time of purchase to use either the trips or mileage method. [35 ILCS 120/2-51(d)] If the purchase is from an Illinois retailer, the election must be made on a certification described in subsection (d)(2)(F). If the purchase is from an out-of-state retailer or from a non-retailer, the election must be documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (d)(2)(B), the person will be deemed to have chosen the mileage method. [35 ILCS 120/2-51(d)] The election to use either the trips or mileage method made as required under this subsection (d)(2)(B) will remain in effect for the duration of the purchaser's ownership of that trailer. [35 ILCS 120/2-51(f)] The owner of trailers that are dedicated to a motor vehicle, or group of motor vehicles, may elect at the time of purchase to alternatively document the qualifying use of those trailers in the following manner:

- i) if a trailer is dedicated to a single motor vehicle that qualifies under subsection (d)(2)(A), then that trailer will also qualify for the exemption;
- ii) if a trailer is dedicated to a group of motor vehicles that all qualify under subsection (d)(2)(A), then that trailer will also qualify for the exemption; or
- iii) if one or more trailers are dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify as rolling stock moving in interstate commerce under subsection (d)(2)(A), then the percentage of those trailers that qualifies for the exemption is equal to the

percentage of those motor vehicles in that group that qualify for the exemption. However, the mathematical application of the qualifying percentage to the group of trailers will not be applied to any fraction of a trailer. If the owner of the trailers chooses to use the method provided under this subsection (d)(2)(B)(iii), any trailer or group of trailers that is not considered to qualify for the exemption under the mathematical application of the qualifying percentage will not qualify for the exemption even if documentation for a specific trailer or trailers in that group is provided to show that such a trailer or trailers would have met the test in subsection (d)(2)(B)(i).

iv) For purposes of this subsection (d)(2)(B), "dedicated" means that the trailer or trailers are used exclusively by a specific motor vehicle or specific group or fleet of motor vehicles.

C) Repair and replacement parts for motor vehicles and trailers purchased before August 24, 2017. The definition of "use as rolling stock moving in interstate commerce" required to meet the test for the rolling stock exemption as set forth in subsections (d)(2)(A) for motor vehicles and (d)(2)(B) for trailers applies to all property purchased before August 24, 2017 for the purpose of being attached to motor vehicles or trailers as a part thereof. [35 ILCS 120/2-51(c) and (d)] Repair and replacement parts purchased before August 24, 2017 for the purpose of being attached to a motor vehicle or trailer as a part thereof qualify for the rolling stock exemption if, at the time of purchase of the repair or replacement parts and for each of the corresponding motor vehicle's or trailer's consecutive 12-month periods thereafter (i.e. the parts follow the 12-month periods for the rolling stock that they become a part of), the motor vehicle or trailer to which the parts were to be attached met the requirements of subsection (d)(2)(A) or (d)(2)(B), as appropriate, and the purchaser provided a certification to that effect as required in subsection (d)(2)(F), regardless of when the motor vehicle or trailer itself was purchased. For more detail on the application of 12-month periods for repair and replacement parts, see subsection (d)(2)(E)(iii).

D) Basic guidelines on the trips or miles that may and may not be used to claim the rolling stock exemption for motor vehicles and trailers purchased before August 24, 2017.

- i) For interstate trips or interstate miles to qualify, the interstate trips or miles must be for hire. However, the total amount of trips taken or miles traveled by rolling stock within any 12-month period includes trips or miles for hire and those not for hire. An example of a not for hire trip or not for hire mileage is when a business uses its truck to transport its own merchandise.

EXAMPLE – Non-Qualifying: A farmer in Decatur, Illinois sells grain to an interstate carrier. The carrier takes delivery of the grain in Decatur and hauls it to Oklahoma City, Oklahoma. The shipment from Decatur, Illinois to Oklahoma City, Oklahoma is not included in the carrier's qualifying interstate trips or miles for hire because the shipment was not for hire. The carrier owned the grain it was shipping interstate. For an interstate trip to qualify, it must be for hire.

- ii) Any use of the rolling stock in a movement from one location to another, including but not limited to mileage incurred by rolling stock returning from a delivery without a load or passengers, shall be counted as a trip or mileage.

- iii) However, the movement of the rolling stock in relation to the maintenance or repair of that rolling stock shall not count as a trip or mileage.

- iv) Any mileage shown for rolling stock that is undocumented as a trip or trips shall be counted as part of the total trips or mileage taken by that rolling stock. If the trips method has been chosen for that rolling stock, the Department shall use its best judgment and information to determine the number of trips represented by such mileage.

- v) A movement whereby rolling stock is returning empty from a trip for hire shall be counted as a trip or mileage for hire. A movement whereby rolling stock is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip or mileage for hire.

- E) Twelve-month periods for motor vehicles and trailers (and repair and replacement parts) purchased before August 24, 2017.

- i) To be eligible for the rolling stock exemption, motor vehicles and trailers must carry persons or property for hire in interstate commerce for greater than 50% of their total trips or for greater than 50% of their total miles for each 12-month period subject to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5] and under the following Acts through incorporation of Sections 4 and 5 of the Retailers' Occupation Tax Act: the Use Tax Act [35 ILCS 105/12]; the Service Occupation Tax Act [35 ILCS 115/12]; and the Service Use Tax Act [35 ILCS 110/12]. The first 12-month period for the use of a motor vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the motor vehicle or trailer is not required to be titled or registered with an agency of this State or the motor vehicle or trailer is not titled or registered with an agency of this State within the time required, the first 12-month period for use of that motor vehicle or trailer begins on its date of purchase or first use in Illinois, whichever is later.
- ii) If a motor vehicle or trailer carries persons or property for hire in interstate commerce in a manner that qualifies for the rolling stock exemption in the first 12-month period, but then does not carry persons or property for hire in interstate commerce in a manner that qualifies for the rolling stock exemption in a subsequent 12-month period, the motor vehicle or trailer and any property attached to that motor vehicle or trailer upon which the rolling stock exemption was claimed will be subject to tax on its original purchase price and tax is due by the last day of the month following the conclusion of the 12-month period in which the exemption conditions are no longer met.

EXAMPLE: A motor vehicle is used in a qualifying manner for the first 12-month period but is not used in a qualifying manner for the second 12-month period. That motor vehicle will be subject to tax based upon its original purchase price, even if it is then used in a qualifying manner in the third 12-month period. As a result, by the last day of the month following the month in which the rolling stock ceases to qualify for the exemption (at the conclusion

of the second 12-month period at which time the purchaser knows that the exemption conditions are no longer met), the purchaser must file a Use Tax return and pay the tax.

iii) For repair and replacement parts to qualify for the rolling stock exemption, the motor vehicle or trailer upon which those parts are installed must be used in a qualifying manner for the motor vehicle's or trailer's 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter (i.e., the parts follow the 12-month periods for the rolling stock that they become a part of). For example, if repair parts were attached or incorporated into a qualifying motor vehicle that was titled and registered prior to the audit period (beyond the limitations period for issuing a Notice of Tax Liability for the vehicle), that motor vehicle must be used in a qualifying manner for the motor vehicle's 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter in order for the parts to qualify for the exemption. This applies regardless of whether the motor vehicle was originally used in a qualifying manner for the 12-month periods preceding the motor vehicle's 12-month period in which the purchase of the repair or replacement parts occurred.

F) Certification of exemption for motor vehicles and trailers purchased before August 24, 2017. To properly claim the rolling stock exemption for motor vehicles and trailers purchased before August 24, 2017, the purchaser must give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce.

i) If the purchaser of a motor vehicle or trailer or repair or replacement parts for a motor vehicle or trailer is an interstate carrier for hire, the purchaser must include its USDOT Number and Interstate Operating Authority Number (MC Number) issued by the FMCSA or must certify that it is a type of interstate carrier for hire (such as an interstate carrier of agricultural commodities for hire) that is not required by law to have an MC Number. In the latter event, the carrier must include its USDOT Number.

- 943
- 944 ii) If the carrier is a type that is subject to regulation by some
- 945 Federal Government regulatory agency other than the
- 946 FMCSA, the carrier must include its registration number
- 947 from such other Federal Government regulatory agency in
- 948 the certification claiming the benefit of the rolling stock
- 949 exemption.
- 950
- 951 iii) If the purchaser of a motor vehicle or trailer or repair or
- 952 replacement parts for a motor vehicle or trailer is a long-
- 953 term lessor (under a lease of one year or more in duration),
- 954 the purchaser must give the seller of the property a
- 955 certification to that effect, similarly identifying the lessee
- 956 interstate carrier for hire as provided above (i.e., USDOT
- 957 Number, MC Number, other number if appropriate).
- 958
- 959 iv) If the purchaser is an owner, lessor, or shipper of tangible
- 960 personal property that will be utilized by interstate carriers
- 961 for hire for use as rolling stock moving in interstate
- 962 commerce, the purchaser must give the seller of the
- 963 property a certification to that effect, similarly identifying
- 964 the lessee or other interstate carrier for hire that will utilize
- 965 the property.
- 966
- 967 v) The giving of a certification does not preclude the
- 968 Department from disregarding it and assessing Use Tax
- 969 against the purchaser if, in examining the purchaser's
- 970 records or activities (or, in cases where the purchaser is not
- 971 the carrier, the carrier's records or activities), the
- 972 Department finds that the certification was not true as to
- 973 some fact that shows that the purchase was taxable and
- 974 should not have been certified as being tax exempt.
- 975
- 976 vi) The Department reserves the right to require the purchaser
- 977 to provide a copy of the purchaser's (or carrier's, in cases
- 978 where the purchaser is not the carrier) FMCSA or other
- 979 Federal Government regulatory agency Certificate of
- 980 Operating Authority (or as much of the certificate as the
- 981 Department deems adequate to verify the fact that the
- 982 purchaser (or carrier, in cases where the purchaser is not
- 983 the carrier) is an interstate carrier for hire) whenever the
- 984 Department deems it necessary. In cases where the
- 985 interstate carrier for hire is not required by law to have a

USDOT Number, MC Number, or other Federal Government regulatory agency number, the Department reserves the right to require the carrier (or purchaser, if the carrier is not the purchaser) to provide other evidence of eligibility for the exemption and to keep records documenting the rolling stock's eligibility for the exemption.

G) Examples applying the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5] or the Use Tax Act [35 ILCS 105/12] incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act for motor vehicles purchased before August 24, 2017. In general, except in the case of a fraudulent return, or in the case of an amended return (where a notice of tax liability may be issued on or after each January 1 and July 1 for an amended return filed not more than three years prior to such January 1 or July 1, respectively), no Notice of Tax Liability shall be issued on and after each January 1 and July 1 covering gross receipts received during any month or period of time more than three years prior to such January 1 and July 1, respectively. For further discussion of the statute of limitations for issuing a Notice of Tax Liability, see Section 130.815.

EXAMPLE 1: A qualifying vehicle was purchased on January 15, 2017 and titled and registered on that date and the appropriate return was timely filed claiming the rolling stock exemption. The vehicle was used in a qualifying manner for the first 12-month period ending on January 15, 2018. However, the vehicle was not used in a qualifying manner at any time thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on June 30, 2020. If the vehicle had been originally purchased and registered outside Illinois and later relocated and registered in Illinois, the first 12-month period would begin on the date of registration in Illinois. For example, if the vehicle was purchased on January 15, 2017 and titled and registered on that date in Missouri, but later relocated to Illinois and registered in Illinois on July 20, 2017, then the period in which the Department would be able to issue a Notice of Tax Liability for Use Tax due regarding that vehicle would expire on December 31, 2020.

EXAMPLE 2: A qualifying vehicle was purchased on July 10, 2015, and was titled and registered on that date. On January 12, 2017, the owner purchased new tires for the vehicle and the vehicle was used in a qualifying manner for the vehicle's 12-month period ending on July 10, 2017, and the two subsequent 12-month periods ending on July 10, 2019. However, the vehicle was not used in a qualifying manner at any time thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding the replacement parts (new tires) would expire on June 30, 2020.

H) Examples applying the greater than 50% trips test for motor vehicles purchased before August 24, 2017:

EXAMPLE 1 – Qualifying: An interstate carrier uses a truck whose gross vehicle weight rating exceeds 16,000 pounds to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of the property is delivered. As documented on the bill of lading provided to the carrier, that property will be delivered, as part of the continuation of the shipment, by another carrier to a location outside of Illinois (qualifies as interstate trip because documentation of interstate shipment). The truck continues to Indianapolis, Indiana and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The truck then continues to Gary, Indiana and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana (qualifies as interstate trip because returning from qualifying trip (see subsection (d)(2)(D)(v)). The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If these were all the trips that the truck made within the first 12-month period (or were all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in subsection (d)(2)(A) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that 12-month period. Any repair and replacement parts purchased for the truck during the first 12-month period would also have qualified for the exemption.

EXAMPLE 2 – Non-Qualifying: An interstate carrier uses a truck whose gross vehicle weight rating exceeds 16,000 pounds to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered for use by the recipient (does not qualify as interstate trip because it is strictly intrastate transport). The truck then continues to Gary, Indiana and picks up property for use by that carrier's business (does not qualify because it is not for hire). The truck then returns to Chicago, Illinois (does not qualify because returning from a non-qualifying trip out of state). The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If these were all the trips that the truck made within the first 12-month period (or were all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in subsection (d)(2)(A) for that 12-month period because these trips resulted in a 0 percentage of qualifying interstate trips for hire.

D) Examples of application of the greater than 50% mileage test for motor vehicles purchased before August 24, 2017:

EXAMPLE 1 – Qualifying: An interstate carrier uses a truck whose gross vehicle weight rating exceeds 16,000 pounds to carry property for hire from Springfield, Illinois to Champaign, Illinois (88 mile movement) where part of the property is delivered. As documented on the bill of lading provided to the carrier, that property will be delivered, as part of the continuation of the shipment, by another carrier to a location outside of Illinois (qualifies as interstate miles because documentation of interstate shipment). The truck continues to Indianapolis, Indiana (125 mile movement) and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The truck then continues to Hammond, Indiana (151 mile movement) and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The truck then returns empty to Springfield, Illinois (204 mile movement) from the delivery in Hammond, Indiana (qualifies as interstate trip because returning from qualifying trip (see subsection (d)(2)(D)(v)). The truck is considered to have driven a total of 568 qualifying miles. If these were all the miles that the truck was driven within the first 12-month period (or were all the miles that truck was driven in a subsequent 12-month period), it would qualify for the test set forth in subsection (d)(2)(A) for that 12-month period because 100% of its miles were for qualifying interstate movements for hire. Any

repair or replacement parts purchased for the truck during the first 12-month period would also have qualified for the exemption.

EXAMPLE 2 – Non-Qualifying: If the truck described above in Example 1 had instead traveled a total of 1,568 miles during that 12-month period with 1,000 of those miles not being documented as qualifying miles, the truck would not have qualified for the exemption because it only had 568 qualifying miles out of 1,568 miles for a 36.22% qualifying percentage. Any repair or replacement parts purchased for the truck would not have qualified for the exemption.

EXAMPLE 3 – Qualifying and Non-Qualifying: A short-term truck leasing company (e.g., 3 months) leases trucks whose gross vehicle weight rating exceeds 16,000 pounds. The trucks are typically leased to persons who transport property in interstate commerce. The leasing company requires its customers to provide detailed records of the destination of each trip of a leased truck and whether the transport was for hire. One of the leasing company's trucks travels 3,000 miles during its first 12-month period, 4,500 miles during its second 12-month period, and 2,800 miles during its third 12-month period. The leasing company can show through the records it collects that, for each 12-month period, the truck carried property in interstate commerce for hire for greater than 50% of the miles traveled by the truck. For another truck, however, the records show that, for the second 12-month period, the truck did not transport property in interstate commerce for hire. This is because of the combination of (i) trips that were strictly in-state and for which the property did not originate or terminate out of state and (ii) trips that were not for hire, but rather were trips in which the customer hauled its own property. A third truck did not qualify for the exemption because the leasing company could not provide the documentation to support its claim that the truck was used in each of the 12-month periods to carry persons or property for hire in interstate commerce for greater than 50% of its total trips or total miles for that period.

J) Examples where trailers are dedicated to a motor vehicle or motor vehicles.

EXAMPLE 1: A trucking company owns 2 trailers that are dedicated to the company's 2 trucks and the owner elected at purchase to document the qualification of the trailers based on the

qualification of the trucks to which they would be dedicated. Both of these trucks qualify for the exemption. Both the trailers will be considered to have met the requirements for the exemption during those periods.

EXAMPLE 2: A trucking company owns 30 trailers. All of those trailers are dedicated to a subsidiary company's 20 truck fleet and the owner elected at purchase to document the qualification of the trailers based on the qualification of the trucks to which they would be dedicated. Only 19 of those 20 trucks qualify for the exemption for the appropriate 12-month periods. The qualifying percentage for the group of trucks for which all of the trailers are dedicated is 95%. The application of the 95% qualifying percentage to the 30 trailer group would represent 28.5 trailers. Because no fraction of a trailer may qualify under the mathematical application of the qualifying percentage, only 28 of the 30 trailers will be considered to have met the requirements for the exemption during those periods.

e) Limousines. This subsection (e) sets forth the specific requirements to qualify for the rolling stock exemption for limousines.

1) Application of the rolling stock test for limousines. A limousine, as defined in subsection (b), will qualify for the rolling stock exemption if, during a 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. Persons claiming the rolling stock exemption for a limousine must make an election at the time of purchase to use either the trips or mileage method to document that the limousine will be used in a manner that qualifies for the exemption. [35 ILCS 120/2-51(c)]

A) If the purchase is from an Illinois retailer, the election must be made on a certification as provided in subsection (e)(5). If the purchase is from an out-of-state retailer or from a non-retailer, the election must be documented in the purchaser's books and records.

B) If no election is made as required under subsection (e)(1)(A), the person will be deemed to have chosen the mileage method.

C) Once such an election for a limousine has been made, or is deemed to have been made, the method used to document the qualification of that limousine for the rolling stock exemption will remain in

effect for the duration of the purchaser's ownership of that limousine. [35 ILCS 120/2-51(f)]

- 2) Repair and replacement parts for limousines. The definition of "use as rolling stock moving in interstate commerce" required to meet the test for the rolling stock exemption as set forth in subsection (e)(1) applies to all property purchased for the purpose of being attached to the limousine as a part thereof. [35 ILCS 120/2-51(c)] Repair and replacement parts purchased for the purpose of being attached to a limousine as a part thereof qualify for the rolling stock exemption if, at the time of purchase of the repair or replacement parts and for each of the corresponding limousine's consecutive 12-month periods thereafter (i.e., the parts follow the 12-month periods for the rolling stock that they become a part of), the limousine to which the parts will be attached meets the requirements of subsection (e)(1) and the purchaser provides a certification to that effect as required in subsection (e)(5), regardless of when the limousine itself was purchased. For more detail on the application of 12-month periods for repair and replacement parts, see subsection (e)(4) incorporating the provision of subsection (d)(2)(E)(iii).
- 3) Basic guidelines on the trips or miles that may and may not be used to claim the rolling stock exemption for limousines.
 - A) For interstate trips or interstate miles to qualify, the interstate trips or miles must be for hire. However, the total amount of trips taken or miles traveled by a limousine in any 12-month period includes trips or miles for hire and those not for hire. An example of a not for hire trip or not for hire mileage is when a business uses its limousine to transport its own employees.
 - B) Any use of the limousine in a movement from one location to another, including but not limited to mileage incurred by a limousine returning from a delivery without a passenger, shall be counted as a trip or mileage.
 - C) However, the movement of the limousine in relation to the maintenance or repair of that limousine shall not count as a trip or mileage.
 - D) Any mileage shown for a limousine that is undocumented as a trip or trips shall be counted as part of the total trips or mileage taken by that limousine. If the trips method has been chosen for that limousine, the Department shall use its best judgment and

information to determine the number of trips represented by such mileage.

E) A movement whereby a limousine is returning empty from a trip for hire shall be counted as a trip or mileage for hire. A movement whereby a limousine is moving to a location where passengers are being loaded for a trip for hire shall be counted as a trip or mileage for hire.

F) A limousine that carries for hire a person to or from an airport is presumed, absent evidence to the contrary, to be carrying a person whose journey originates or terminates outside Illinois, even if the limousine travels just between points in Illinois.

EXAMPLE 1 – Qualifying: A limousine picks up passengers at their residence in downtown Chicago and drives them to O'Hare International Airport. This trip is presumed, absent evidence to the contrary, to be a qualifying trip or miles for purposes of the exemption. In addition, the limousine picks up more passengers at O'Hare International Airport and drives them to a hotel in downtown Chicago. This trip is also presumed, absent evidence to the contrary, to be a qualifying trip or miles for purposes of the exemption.

EXAMPLE 2 – Non-Qualifying: A major corporation owns a limousine that it uses to transport employees to and from O'Hare International Airport for business travel. These limousine trips are not qualifying trips or miles for purposes of the exemption because they are not for hire.

4) Twelve-month periods for limousines (and repair and replacement parts for limousines). The guidelines provided in subsection (d)(2)(E) apply to limousines the same as if set forth here, except that the limitation in that subsection to purchases made before August 24, 2017, does not apply and references to motor vehicles and trailers mean limousines.

5) Certification of exemption for limousines. To properly claim the rolling stock exemption, the purchaser must give the seller a certification the purchaser is an interstate carrier for hire, and the purchaser is purchasing the limousine, as defined in this Section, or repair or replacement parts for a limousine for use as rolling stock moving in interstate commerce.

A) If the purchaser is an owner or lessor of a limousine that will be utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee or other interstate carrier for hire that will utilize the property.

B) The giving of a certification does not preclude the Department from disregarding it and assessing Use Tax against the purchaser if, in examining the purchaser's records or activities (or, in cases where the purchaser is not the carrier, the carrier's records or activities), the Department finds the certification was not true as to some fact that shows that the purchase was taxable and should not have been certified as being tax exempt.

C) In cases where the interstate carrier for hire is not required by law to have a USDOT Number, MC Number, or other Federal Government regulatory agency number, the Department reserves the right to require the carrier (or purchaser, if the carrier is not the purchaser) to provide other evidence of eligibility for the exemption and to keep records documenting the rolling stock's eligibility for the exemption.

6) Examples. The Examples in subsections (d)(2)(G), (H), and (I) apply to limousines the same as if set forth here, except that references to motor vehicles mean limousines.

f) Aircraft.

1) Application of the rolling stock test for aircraft. For aircraft purchased on or after January 1, 2014, "use as rolling stock moving in interstate commerce" occurs when, during a 12-month period, the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. [35 ILCS 120/2-51(e)] For aircraft purchased before January 1, 2014 to be eligible for the exemption, the taxpayer is required to show the aircraft transported persons or property for hire in interstate commerce on a "regular and frequent" basis. See National School Bus Service, Inc. v. Department of Revenue, 302 Ill. App. 3d 820 (1st Dist. 1998). The person claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method and document that election in their books and records. [35 ILCS 120/2-51(e)]

- A) If the purchase is from an Illinois retailer, the election must be made on a certification as provided in subsection (f)(6). If the purchase is from an out-of-state retailer or from a non-retailer, the election must be documented in the purchaser's books and records.
- B) If no election is made under subsection (f)(1)(A) to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. [35 ILCS 120/2-51(e)] For aircraft, flight hours may be used in lieu of recording miles in determining whether the aircraft meets the mileage test in subsection (f)(1). [35 ILCS 120/2-51(f)]
- C) Once such an election for an aircraft has been made, or is deemed to have been made if no election is made, the method used to document the qualification of that aircraft for the rolling stock exemption will remain in effect for the duration of the purchaser's ownership of that aircraft. [35 ILCS 120/2-51(f)]
- 2) Repair and replacement parts for aircraft. Notwithstanding any other provision of law to the contrary, property purchased on or after January 1, 2014 for the purpose of being attached to aircraft as a part thereof qualifies as rolling stock moving in interstate commerce only if the aircraft to which it will be attached qualifies as rolling stock moving in interstate commerce under the test set forth in subsection (f)(1), regardless of when the aircraft was purchased. Persons who purchased aircraft prior to January 1, 2014 shall make an election to use either the trips or mileage method and document that election in their books and records for the purpose of determining whether property purchased on or after January 1, 2014 for the purpose of being attached to aircraft as a part thereof qualifies as rolling stock moving in interstate commerce under subsection (f)(1). [35 ILCS 120/2-51(e)] Repair and replacement parts purchased for the purpose of being attached to an aircraft as a part thereof qualify for the rolling stock exemption if, at the time of purchase of the repair or replacement parts and for each of the corresponding aircraft's consecutive 12-month periods thereafter (i.e., the parts follow the 12-month periods for the rolling stock that they become a part of), the aircraft to which the parts will be attached meets the requirements of subsection (f)(1) and the purchaser provides a certification to that effect as required in subsection (f)(6), regardless of when the aircraft itself was purchased. For more detail on the application of 12-month periods for repair and replacement parts, see subsection (f)(4) incorporating the provision of subsection (d)(2)(E)(iii).

- 3) Basic guidelines on the trips or miles that may and may not be used to claim the rolling stock exemption for aircraft.
- A) For interstate trips or interstate miles (or flight hours used in lieu of miles) to qualify, the interstate trips or miles (or flight hours used in lieu of miles) must be for hire. However, the total amount of trips taken or miles (or flight hours used in lieu of miles) traveled by an aircraft within any 12-month period includes trips or miles (or flight hours used in lieu of miles) for hire and those not for hire. An example of a not for hire trip or not for hire mileage (or flight hours used in lieu of mileage) is when a business uses its aircraft to transport its own employees or cargo.
- B) Any use of an aircraft in a movement from one location to another, including but not limited to mileage (or flight hours used in lieu of mileage) incurred by an aircraft returning from a delivery without a load or passengers, shall be counted as a trip or mileage (or flight hours used in lieu of mileage).
- C) However, the movement of an aircraft in relation to the maintenance or repair of that aircraft shall not count as a trip or mileage (or flight hours used in lieu of mileage).
- D) Any mileage (or flight hours used in lieu of mileage) shown for an aircraft that is undocumented as a trip or trips shall be counted as part of the total trips or mileage (or flight hours used in lieu of mileage) taken by that aircraft. If the trips method has been chosen for that aircraft, the Department shall use its best judgment and information to determine the number of trips represented by such mileage (or flight hours used in lieu of mileage).
- E) A movement whereby an aircraft is returning empty from a trip for hire shall be counted as a trip or mileage (or flight hours used in lieu of mileage) for hire. A movement whereby an aircraft is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip or mileage (or flight hours used in lieu of mileage) for hire.
- F) The movement of an aircraft during the first 6 months after purchase or during the first 100 flight hours after purchase, whichever comes first, in relation to inspection or in furtherance of aircraft certification under the Federal Aviation Regulations related

to inspection or certification of aircraft for flights for hire does not count as a trip or mileage for purposes of determining whether the aircraft meets the trips or mileage (or flight hours used in lieu of mileage) test for the exemption. To qualify under this subsection (f)(3)(F), taxpayer must maintain records specifically documenting the nature of the inspection or certification.

EXAMPLE 1 – (Aircraft Inspection Flight): To generate more charter business, an aircraft owner decides to provide inflight Wi-Fi to passengers. Because the Wi-Fi equipment has the potential to create electromagnetic interference with an aircraft's instruments, the aircraft is required to conduct a test flight before returning to service. See, e.g., Federal Aviation Administration ("FAA") Advisory Circular AC No. 25-7D (5/4/2018), § 32.1 et seq. If the test flight occurs within the first 6 months after purchase or during the first 100 flight hours after purchase, whichever comes first, then the test flight will not be included in the rolling stock determination as a trip or miles (or flight hours used in lieu of miles).

EXAMPLE 2 – (Aircraft Certification Flight): Pursuant to 14 C.F.R. 91 Appendix G, § 9, and FAA Advisory Circular AC No. 91-85B (1/29/2019), 4.3.5, the FAA has a recurrent height-monitoring program for all operators planning flights in Reduced Vertical Separation Minimum (RVSM) airspace. In the United States, RVSM monitoring requirements can be met by flying over an FAA Aircraft Geometric Height Measurement Element Constellation site. This RVSM monitory flight will not be included in the rolling stock determination as a trip or miles (or flight hours used in lieu of miles), if the flight is conducted within the first six months after purchase or during the first 100 flight hours after purchase, whichever comes first.

G) The movement of an aircraft during the first six months after purchase or during the first 100 flight hours per pilot after purchase, whichever comes first, in relation to flight time required for pilot certification of eligibility for conducting for hire flights, or the meeting of FAA or other governmental requirements, rules, or standards to carry persons or property for hire without pilot operating limitations does not count as a trip or mileage (or flight hours used in lieu of mileage) for purposes of determining whether the aircraft meets the trips or mileage (or flight hours used in lieu of mileage) test for the exemption. To qualify under this subsection

(f)(3)(G), taxpayer's records must specifically document that the movement was for pilot certification of eligibility for conducting for hire flights or to meet other requirements to carry persons or property for hire without pilot operating limitations.

EXAMPLE 1 – (Pilot Certification Flight): Pursuant to 14 C.F.R. 135.299, no charter operator may use a pilot, nor may any person serve as a pilot in command of a flight, unless, since the beginning of the 12th calendar month before that service, that pilot has passed a flight check in one of the types of aircraft in which that pilot is to fly. The flight check shall (i) be given by an approved check pilot or by an FAA administrator; (ii) consist of at least one flight over one route segment; and (iii) include takeoffs and landings at one or more representative airports. These pilot certification flights conducted pursuant to 14 C.F.R. 135.299 will not be included in the rolling stock determination as a trip or miles (or flight hours used in lieu of miles), if the flights are conducted within the first 6 months after purchase or during the first 100 flight hours per pilot after purchase, whichever comes first.

EXAMPLE 2 – (Pilot Certification Flight): Pursuant to 14 C.F.R. 135.4, for a two-pilot crew to operate an aircraft without pilot operating limitations under 14 C.F.R. 135 (on-demand charter operations), the two pilots are each required to have 100 hours of flight time in the aircraft type. Flights conducted in the aircraft type which count towards the pilots meeting their 100 hours of flight time under Part 135.4 will not be included in the rolling stock determination as a trip or miles (or flight hours used in lieu of miles), if the flights occur within the first 6 months after purchase or during the first 100 flight hours per pilot after purchase, whichever comes first.

- 4) Twelve-month periods for aircraft (and repair and replacement parts for aircraft). The guidelines provided in subsection (d)(2)(E) apply to aircraft the same as if set forth here, except that the limitation in that subsection to purchases made before August 24, 2017, does not apply and references to motor vehicles and trailers mean aircraft.
- 5) Purchases by lessors of aircraft under a lease for one year or longer. When an aircraft is purchased by a lessor, under a lease for one year or longer, executed or in effect at the time of purchase to an interstate carrier for hire, who did not pay the tax imposed by this Act to the retailer, such lessor (by the last day of the month following the calendar month in which

such property reverts to the use of such lessor) shall file a return with the Department and pay the tax upon the fair market value of such property on the date of such reversion. However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property that was paid by the lessor at the time of purchase. [35 ILCS 105/10] When the aircraft is no longer used in a manner that qualifies for the rolling stock exemption as provided in this subsection (f)(5), the lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month in which the property is no longer subject to a qualifying lease.

EXAMPLE: An aircraft was purchased for lease to an interstate carrier for hire on August 15, 2020 and was titled and registered on that date. The lease to the interstate carrier for hire was executed or in effect at the time of purchase. The appropriate return was timely filed claiming the rolling stock exemption. The qualifying lease ended on November 15, 2021, and the aircraft was no longer used in a qualifying manner. At the time the qualifying lease ends and the aircraft reverts to the lessor, the lessor owes Use Tax on the fair market value of the aircraft on the date it reverts to the lessor. The return and the tax are due by the last day of the month following the month in which the aircraft reverts to the lessor. The period in which the Department would be able to issue a Notice of Tax Liability for Use Tax due regarding that aircraft would expire on December 31, 2024.

6) Certification of exemption for aircraft. To properly claim the rolling stock exemption, the purchaser must give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the aircraft, or repair or replacement parts for an aircraft, for use as rolling stock moving in interstate commerce.

A) If the purchaser is a lessor, the purchaser must give the seller of the property a certification to that effect, identifying the lessee that will utilize the property.

B) If the purchaser of an aircraft or repair or replacement parts for an aircraft is an interstate carrier for hire, the purchaser must include its Air Carrier Certificate issued by the Federal Aviation Administration.

C) If the purchaser of an aircraft or repair or replacement parts for an aircraft is a long-term lessor (under a lease of one year or more in

duration), the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee interstate carrier for hire as provided above (i.e., Air Carrier Certificate issued by the Federal Aviation Administration).

D) If the purchaser is an owner, lessor, or shipper of tangible personal property that will be utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee or other interstate carrier for hire that will utilize the property. For example, an Air Carrier Certificate issued by the Federal Aviation Administration to the purchaser (or the lessee of the purchaser if the lessee is the carrier) that authorizes the certificate holder to operate as an air carrier and conduct common carriage operations in accordance with Part 135 of the Federal Aviation Regulations (49 C.F.R. 135) would be evidence the carrier is an authorized interstate carrier for hire.

E) The giving of a certification does not preclude the Department from disregarding it and assessing Use Tax against the purchaser if, in examining the purchaser's records or activities (or, in cases where the purchaser is not the carrier, the carrier's records or activities), the Department finds that the certification was not true as to some fact that shows the purchase was taxable and should not have been certified as being tax exempt.

F) In cases where the interstate carrier for hire is not required by law to have a federal government regulatory agency authorizing it to conduct common carriage operations, the Department reserves the right to require the carrier (or purchaser, if the carrier is not the purchaser) to provide other evidence of eligibility for the exemption and to keep records documenting the rolling stock's eligibility for the exemption.

7) Examples applying the limitations period for issuing a Notice of Tax Liability for aircraft. The Examples in subsection (d)(2)(G) apply to aircraft the same as if set forth here, except that references to motor vehicles mean aircraft.

8) Examples of application of the greater than 50% trips test for aircraft:

EXAMPLE 1 – (Aircraft – Qualifying): The owner of an aircraft has been issued an Air Carrier Certificate by the Federal Aviation Administration

which authorizes the certificate holder to operate as an air carrier and conduct common carriage operations in accordance with Part 135 of the Federal Aviation Regulations (49 C.F.R. 135). The owner of the aircraft operates a charter air carrier company and uses the aircraft to carry passengers for hire from O'Hare Airport in Chicago, Illinois to MidAmerica St. Louis Airport in Mascoutah, Illinois where some of the passengers deplane. As documented on the itinerary provided to the carrier, those passengers will be flown, as part of the continuation of their journey, by another carrier to a location outside of Illinois (qualifies as interstate trip because documentation of interstate travel). The aircraft continues to Indianapolis, Indiana and more passengers deplane in Indianapolis (qualifies as interstate trip because transported out of state). The aircraft then continues to Philadelphia, Pennsylvania and the remainder of the passengers deplane in Philadelphia (qualifies as interstate trip because transported out of state). The aircraft then returns empty to O'Hare Airport from Philadelphia (qualifies as interstate trip because returning from qualifying trip (see subsection (d)(2)(D)(v))). The aircraft is considered to have made a total of four trips (one trip to Mascoutah, Illinois, one trip to Indianapolis, Indiana, one trip to Philadelphia, Pennsylvania, and a return trip back to Chicago, Illinois). If these were all the trips that the aircraft made within the first 12-month period (or were all the trips that aircraft made in a subsequent 12-month period), it would qualify for the test set forth in subsection (f)(1) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair or replacement parts purchased for the aircraft during that first 12-month period would also have qualified for the exemption.

EXAMPLE 2 – (Aircraft – Non-Qualifying): The owner of an aircraft has been issued an Air Carrier Certificate by the Federal Aviation Administration which authorizes the certificate holder to operate as an air carrier and conduct common carriage operations in accordance with Part 135 of the Federal Aviation Regulations (49 C.F.R. 135). The owner of the aircraft operates a charter air carrier company and uses the aircraft to carry passengers for hire from O'Hare Airport in Chicago, Illinois to Abraham Lincoln Capitol Airport in Springfield, Illinois where the passengers deplane (does not qualify as interstate trip because it is strictly intrastate transport). The aircraft then continues to Indianapolis, Indiana and picks up employees of the charter aircraft company (does not qualify because it must be for hire). The aircraft then returns to Chicago, Illinois (does not qualify because returning from a non-qualifying trip out of state). The aircraft is considered to have made a total of three trips (one to Springfield, Illinois, one to Indianapolis, Indiana, and a return trip to

Chicago, Illinois). If these were all the trips the aircraft made within the first 12-month period (or were all the trips that aircraft made in a subsequent 12-month period), it would not qualify for the test set forth in subsection (f)(1) for that 12-month period because 0% of these trips qualified as interstate trips for hire. Any repair or replacement parts purchased for the aircraft during that first 12-month period would also not have qualified for the exemption.

EXAMPLE 3 – (Aircraft – Non-Qualifying): A corporation purchases a jet aircraft and leases it to a qualifying interstate air carrier for hire. The lease was in effect at the time of purchase. An election is made to use the trips test method on the Rolling Stock Certification form. During the first 12-month period, the aircraft had 100 trips. Of that total, 50 trips were for the transportation of company employees. Another 25 trips were for non-qualifying intrastate flights for hire. The remaining 25 trips were for qualifying interstate movements for hire. The aircraft does not qualify for the rolling stock exemption as 75% of its trips (75/100) were for non-qualifying movements.

- 9) Examples of application of the greater than 50% mileage (or flight hours used in lieu of mileage) test for aircraft:

EXAMPLE 1 – (Aircraft – Qualifying): The owner of an aircraft has been issued an Air Carrier Certificate by the Federal Aviation Administration which authorizes the certificate holder to operate as an air carrier and conduct common carriage operations in accordance with Part 135 of the Federal Aviation Regulations (49 C.F.R. 135). The owner of the aircraft operates a charter air carrier company and uses the aircraft to carry passengers for hire from MidAmerica St. Louis Airport in Mascoutah, Illinois to Chicago Midway International Airport in Chicago, Illinois (1 hour flight time) where some of the passengers deplane. As documented on the itinerary provided to the carrier, those passengers will be flown, as part of the continuation of their journey, by another carrier to a location outside of Illinois (qualifies as interstate miles because documentation of interstate travel). The aircraft continues to LaGuardia Airport, New York City, New York (2 hours flight time) and more passengers deplane at LaGuardia (qualifies as interstate trip because transported out of state). The aircraft then continues to Indianapolis International Airport, Indianapolis, Indiana (2 hours flight time) and the remainder of the passengers deplane in Indianapolis (qualifies as interstate trip because passengers originated in Illinois). The aircraft then returns empty to MidAmerica St. Louis Airport, Mascoutah, Illinois (30 minutes flight time) from the stop in Indianapolis, Indiana (qualifies as interstate trip

because returning from qualifying trip (see subsection (d)(2)(D)(v))). The aircraft is considered to have flown a total of 5 hours and 30 minutes flight time. If these were all the flight hours that the aircraft flew within the first 12-month period (or were all the flight hours that the aircraft flew in a subsequent 12-month period), it would qualify for the test set forth in subsection (f)(1) for that 12-month period because 100% of its flight hours were for qualifying interstate movements for hire. Any repair or replacement parts purchased for the aircraft by the owner of the aircraft would also have qualified for the exemption.

EXAMPLE 2 – (Aircraft – Non-Qualifying): If the aircraft described above in Example 1 had traveled instead a total of 24 hours and 45 minutes during that 12-month period with 16 hours and 30 minutes of those flight hours not being documented as qualifying flight hours, the aircraft would not have qualified for the exemption because only 8 hours and 15 minutes of its flight hours qualified out of 24 hours and 45 minutes total flight hours for a 33.33% qualifying percentage. Any repair or replacement parts purchased by the owner for the aircraft would not have qualified for the exemption.

EXAMPLE 3 – (Aircraft – Non-Qualifying): A corporation purchases a jet aircraft and leases it to a qualifying interstate air carrier for hire. The lease was in effect at the time of purchase. An election is made to use the mileage test method on the Rolling Stock Certification form and use flight hours instead of mileage. During the first 12-month period, the aircraft had 400 hours of flight time. Of that total, 250 hours were for the transportation of company employees. Another 50 hours were for non-qualifying intrastate flights for hire. The remaining 100 hours of flight time were for qualifying interstate movements for hire. The aircraft does not qualify for the rolling stock exemption as 75% of its flight hours (300/400) were for non-qualifying movements.

g) Watercraft.

- 1) Application of the rolling stock test for watercraft. For watercraft purchased on or after January 1, 2014, "use as rolling stock moving in interstate commerce" occurs when, during a 12-month period, the rolling stock has carried persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. [35 ILCS 120/2-51(e)] Persons claiming the exemption shall make an election at the time of purchase to use either the trips or mileage method and document that election in their books and records.

- A) If the purchase is from an Illinois retailer, the election must be made on a certification as provided in subsection (g)(6). If the purchase is from an out-of-state retailer or from a non-retailer, the election must be documented in the purchaser's books and records.
- B) If no election is made under subsection (g)(1)(A) to use the trips or mileage method, the person shall be deemed to have chosen the mileage method. For watercraft, nautical miles or trip hours may be used in lieu of recording miles in determining whether the watercraft meets the mileage test in subsection (g)(1).
- C) Once such an election for a watercraft has been made, or is deemed to have been made if no election is made, the method used to document the qualification of that watercraft for the rolling stock exemption will remain in effect for the duration of the purchaser's ownership of that watercraft. [35 ILCS 120/2-51(f)]

- 2) Repair and replacement parts for watercraft. Notwithstanding any other provision of law to the contrary, property purchased on or after January 1, 2014 for the purpose of being attached to watercraft as a part thereof qualifies as rolling stock moving in interstate commerce only if the watercraft to which it will be attached qualifies as rolling stock moving in interstate commerce under the test set forth in subsection (g)(1), regardless of when the watercraft was purchased. Persons who purchased watercraft prior to January 1, 2014 shall make an election to use either the trips or mileage method and document that election in their books and records for the purpose of determining whether property purchased on or after January 1, 2014 for the purpose of being attached to watercraft as a part thereof qualifies as rolling stock moving in interstate commerce under subsection (g)(1). [35 ILCS 120/2-51(e)]
- Repair and replacement parts purchased for the purpose of being attached to a watercraft as a part thereof qualify for the rolling stock exemption if, at the time of purchase of the repair or replacement parts and for each of the corresponding watercraft's consecutive 12-month periods thereafter (i.e., the parts follow the 12-month periods for the rolling stock that they become a part of), the watercraft to which the parts will be attached meets the requirements of subsection (g)(1) and the purchaser provides a certification to that effect as required in subsection (g)(6), regardless of when the watercraft itself was purchased. For more detail on the application of 12-month periods for repair and replacement parts, see subsection (g)(4) incorporating the provision of subsection (d)(2)(E)(iii).

3) Basic guidelines on the trips or miles (or nautical miles or trip hours) that may and may not be used to claim the rolling stock exemption for watercraft.

A) For interstate trips or interstate miles (or nautical miles or trip hours) to qualify, the interstate trips or miles (or nautical miles or trip hours) must be for hire. However, the total amount of trips taken or miles (or nautical miles or trip hours) traveled by watercraft within any 12-month period includes trips or miles (or nautical miles or trip hours) for hire and those not for hire. An example of a not for hire trip or not for hire mileage (or nautical miles or trip hours) is when a business uses its watercraft to transport its own merchandise.

B) Any use of watercraft in a movement from one location to another, including but not limited to mileage (or nautical miles or trip hours) incurred by watercraft returning from a delivery without a load or passengers, shall be counted as a trip or mileage (or nautical miles or trip hours).

C) However, the movement of watercraft in relation to the maintenance or repair of that watercraft shall not count as a trip or mileage (or nautical miles or trip hours).

D) Any mileage (or nautical miles or trip hours) shown for watercraft that is undocumented as a trip or trips shall be counted as part of the total trips or mileage (or nautical miles or trip hours) taken by that watercraft. If the trips method has been chosen for that watercraft, the Department shall use its best judgment and information to determine the number of trips represented by such mileage (or nautical miles or trip hours).

E) A movement whereby watercraft is returning empty from a trip for hire shall be counted as a trip or mileage (or nautical miles or trip hours) for hire. A movement whereby watercraft is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip or mileage (or nautical miles or trip hours) for hire.

4) Twelve-month periods for watercraft (and repair and replacement parts for watercraft). The guidelines provided in subsection (d)(2)(E) apply to watercraft the same as if set forth here, except that the limitation in that

subsection to purchases made before August 24, 2017, does not apply and references to motor vehicles and trailers mean watercraft.

- 5) Purchases by lessors of watercraft under a lease for one year or longer. When a watercraft is purchased by a lessor, under a lease for one year or longer, executed or in effect at the time of purchase to an interstate carrier for hire, who did not pay the tax imposed by this Act to the retailer, such lessor (by the last day of the month following the calendar month in which such property reverts to the use of such lessor) shall file a return with the Department and pay the tax upon the fair market value of such property on the date of such reversion. However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property that was paid by the lessor at the time of purchase. [35 ILCS 105/10] When the watercraft is no longer used in a manner that qualifies for the rolling stock exemption as provided in this subsection (g)(5), the lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month in which the property is no longer subject to a qualifying lease.

EXAMPLE: A watercraft was purchased for lease to an interstate carrier for hire on August 15, 2020 and was titled and registered on that date. The lease to the interstate carrier for hire was executed or in effect at the time of purchase. The appropriate return was timely filed claiming the rolling stock exemption. The qualifying lease ended on November 15, 2021, and the watercraft was no longer used in a qualifying manner. At the time the qualifying lease ends and the watercraft reverts to the lessor, the lessor owes Use Tax on the fair market value of the watercraft on the date it reverts to the lessor. The return and the tax are due by the last day of the month following the month in which the watercraft reverts to the lessor. The period in which the Department would be able to issue a Notice of Tax Liability for Use Tax due regarding that watercraft would expire on December 31, 2024.

- 6) Certification of exemption for watercraft. To properly claim the rolling stock exemption, the purchaser must give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the watercraft, or repair or replacement parts for a watercraft, for use as rolling stock moving in interstate commerce.

A) If the purchaser is a lessor, the purchaser must give the seller of the property a certification to that effect, identifying the lessee that will utilize the property.

B) If the purchaser of a watercraft or repair or replacement parts for a watercraft is an interstate carrier for hire, the purchaser must include documentation that shows that that the purchaser is authorized by an agency of the federal government to carry persons or property for hire in interstate commerce.

C) If the purchaser is an owner, lessor, or shipper of tangible personal property that will be utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce, the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee or other interstate carrier for hire that will utilize the property. For example, the purchaser may have documentation from the United States Coast Guard's National Vessel Documentation Center that authorizes the certificate holder to carry persons or property interstate for hire as evidence the carrier is an authorized carrier for hire in interstate commerce.

D) The giving of a certification does not preclude the Department from disregarding it and assessing Use Tax against the purchaser if, in examining the purchaser's records or activities (or, in cases where the purchaser is not the carrier, the carrier's records or activities), the Department finds that the certification was not true as to some fact that shows the purchase was taxable and should not have been certified as being tax exempt.

E) In cases where the interstate carrier for hire is not required by law to have a federal government regulatory agency authorizing it to carry persons or property for hire in interstate commerce, the Department reserves the right to require the carrier (or purchaser, if the carrier is not the purchaser) to provide other evidence of eligibility for the exemption and to keep records documenting the rolling stock's eligibility for the exemption.

7) Examples applying the limitations period for issuing a Notice of Tax Liability for watercraft. The Examples in subsection (d)(2)(G) apply to watercraft the same as if set forth here, except that references to motor vehicles mean watercraft.

8) Examples of application of the greater than 50% trips test for watercraft:

EXAMPLE 1 – (Watercraft – Qualifying): An interstate carrier uses a watercraft to carry property for hire from Moline, Illinois to Quincy,

Illinois where part of the property is delivered. As documented on the bill of lading provided to the carrier, that property will be delivered, as part of the continuation of the shipment, by another carrier to a location outside of Illinois (qualifies as interstate trip because documentation of interstate shipment). The watercraft continues to St. Louis, Missouri and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The watercraft then continues to Memphis, Tennessee and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The watercraft then returns empty to Moline, Illinois from the delivery in Memphis, Tennessee (qualifies as interstate trip because returning from qualifying trip (see subsection (d)(2)(D)(v))). The watercraft is considered to have made a total of four trips (one trip to Quincy, Illinois, one trip to St. Louis, Missouri, one trip to Memphis, Tennessee, and a return trip to Moline, Illinois). If these were all the trips the watercraft made within the first 12-month period (or were all the trips that watercraft made in a subsequent 12-month period), it would qualify for the test set forth in subsection (g)(1) for that 12-month period because it made four qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair or replacement parts purchased for the watercraft during that first 12-month period would also have qualified for the exemption.

EXAMPLE 2 – (Watercraft – Non-Qualifying): An interstate carrier uses a watercraft to carry property for hire from Chicago, Illinois to Peoria, Illinois where that property is delivered for use by the recipient (does not qualify as interstate trip because it is strictly intrastate transport). The watercraft then continues to St. Louis, Missouri and picks up property for use by that carrier's business (does not qualify because it must be for hire). The watercraft then returns to Chicago, Illinois (does not qualify because returning from a non-qualifying trip out of state). The watercraft is considered to have made a total of three trips (one to Peoria, Illinois, one to St. Louis, Missouri, and a return trip to Chicago, Illinois). If these were all the trips that the watercraft made within the first 12-month period (or were all the trips that watercraft made in a subsequent 12-month period), it would not qualify for the test set forth in subsection (g)(1) for that 12-month period because 0% of these trips qualified as interstate trips for hire.

- 9) Examples of application of the greater than 50% mileage (or nautical miles or trip hours) test for watercraft:

EXAMPLE 1 – (Watercraft – Qualifying): An interstate carrier uses a watercraft to carry property for hire from Chicago, Illinois to Peoria, Illinois (144 nautical mile movement) where part of the property is delivered. As documented on the bill of lading provided to the carrier, that property will be delivered, as part of the continuation of the shipment, by another carrier to a location outside of Illinois (qualifies as interstate miles because documentation of interstate shipment). The watercraft continues to St. Louis, Missouri (148 nautical mile movement) and delivers more of the property in that city (qualifies as interstate trip because transported out of state). The watercraft then continues to Cape Girardeau, Missouri (102 nautical mile movement) and delivers the remainder of the property in that city (qualifies as interstate trip because shipment originated in Illinois). The watercraft then returns empty to Chicago, Illinois (394 nautical mile movement) from the delivery in Cape Girardeau, Missouri (qualifies as interstate trip because returning from qualifying trip (see subsection (d)(2)(D)(v))). The watercraft is considered to have traveled a total of 788 qualifying nautical miles. If these were all the miles that the watercraft traveled within the first 12-month period (or were all the miles that watercraft traveled in a subsequent 12-month period), it would qualify for the test set forth in subsection (g)(1) for that 12-month period because 100% of its miles were for qualifying interstate movements for hire. Any repair or replacement parts purchased for the watercraft would also have qualified for the exemption.

EXAMPLE 2 – (Watercraft – Non-Qualifying): If the watercraft described above in Example 4 had traveled instead a total of 2,788 nautical miles during that 12-month period with 2,000 of those nautical miles not being documented as qualifying nautical miles, the watercraft would not have qualified for the exemption because it only had 788 qualifying nautical miles out of 2,788 nautical miles for a 28.26% qualifying percentage. Any repair or replacement parts purchased for the watercraft would not have qualified for the exemption.

- d) ~~Except as provided in subsection (h) of this Section, the exemption applies to vehicles used by an interstate carrier for hire, even just between points in Illinois, in transporting, for hire, persons whose journeys or property whose shipments, originate or terminate outside Illinois on other carriers. The exemption cannot be claimed for an interstate carrier's use of vehicles solely between points in Illinois where the journeys of the passengers or the shipments of property neither originate nor terminate outside Illinois.~~
- e) ~~This subsection applies to motor vehicles and trailers for purposes of subsections (f), (h) and (i) of this Section.~~

- 1) ~~The first 12-month qualifying period for the use of a vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle or trailer is not required to be titled or registered with an agency of this State and the vehicle or trailer is not titled or registered with an agency of this State, the first 12-month qualifying period for use of that vehicle or trailer begins on the date of purchase of that vehicle or trailer. Motor vehicles and trailers must continue to be used in a qualifying manner for each consecutive 12-month period subject to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS 110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act).~~
- 2) ~~When motor vehicles and trailers that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase are no longer used in a qualifying manner, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which the property is no longer subject to a qualifying lease. The provisions of this subsection (c)(2) apply equally to owners, lessors and shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when the property is no longer used in a qualifying manner.~~
- f) ~~From August 14, 1999 through June 30, 2003, pursuant to Public Act 91-0587, motor vehicles, as defined in Section 1-146 of the Illinois Vehicle Code, trailers, as defined in Section 1-209 of the Illinois Vehicle Code, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part thereof, will qualify as rolling stock under this Section if they carry persons or property for hire in interstate commerce on 15 or more occasions in a 12-month period. [35 ILCS 120/2-51] The first 12-month qualifying period for the use of a vehicle or trailer begins on the date of registration or titling with an agency of this State, whichever occurs later. If the vehicle or trailer is not required to be titled or registered with an agency of this State and the vehicle or~~

trailer is not titled or registered with an agency of this State, the first 12-month qualifying period for use of that vehicle or trailer begins on the date of purchase of that vehicle or trailer. The vehicle or trailer must continue to be used in a qualifying manner for each consecutive 12-month period. The Department will apply the provisions of this subsection in determining whether the items qualify for exempt status under this Section for all periods in which liability has not become final or for which the statute of limitations for filing a claim has not expired. A liability does not become final until the liability is no longer open to protest, hearing, judicial review, or any other proceeding or action, either before the Department or in any court of this State.

- 1) ~~If a vehicle or trailer carries persons or property for hire in interstate commerce on 15 or more occasions in the first 12-month period or in a subsequent 12-month period, but then does not carry persons or property for hire in interstate commerce on 15 or more occasions in a subsequent 12-month period, the vehicle, trailer, or any property attached to that vehicle or trailer upon which the rolling stock exemption was claimed will be subject to tax on its original purchase price. For example, if a vehicle was used in a qualifying manner for the first 12-month period, but was not used in a qualifying manner for the second 12-month period, that vehicle will be subject to tax based upon its original purchase price even if it was then used in a qualifying manner in the third 12-month period.~~
- 2) ~~For repair or replacement parts to qualify for the rolling stock exemption, the vehicle or trailer upon which those parts are installed must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month period thereafter. For example, if repair parts were attached or incorporated into a vehicle that was titled and registered prior to the audit period (beyond the limitations period for issuing a Notice of Tax Liability), that vehicle must be used in a qualifying manner for the 12-month period in which the purchase of the repair or replacement parts occurred and the 12-month periods thereafter in order for the parts to continue to qualify for the exemption. This applies regardless of whether the vehicle was originally used in a qualifying manner for the 12-month periods preceding the 12-month period in which the purchase of the repair or replacement parts occurred.~~
- 3) ~~For vehicles, trailers, and all property purchased for the purpose of being attached to those motor vehicles or trailers as a part of the motor vehicle or trailer that are *purchased by a lessor*, for lease to an interstate carrier for hire, by lease *executed or in effect at the time of the purchase*, the lessor will incur Use Tax upon the fair market value of such property on the date~~

~~that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection (f)(3) apply equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when the property is no longer used in a qualifying manner.~~

4) ~~The provisions of Public Act 91-0587 did not change the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5] or the Use Tax Act [35 ILCS 105/12] incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act.~~

A) ~~For example, a vehicle was purchased on January 15, 2000 and titled and registered on that date and was used in a qualifying manner for the first 12-month period ending on January 15, 2001. However, that vehicle was not used in a qualifying manner at anytime thereafter. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on June 30, 2003.~~

B) ~~For example, a vehicle was purchased for lease to an interstate carrier for hire on August 15, 2000 and was titled and registered on that date. The lease to the interstate carrier for hire was executed or in effect at the time of purchase. The qualifying lease ended on November 15, 2001, and the vehicle was no longer used in a qualifying manner. The period in which the Department would be able to issue a Notice of Tax Liability for tax due regarding that vehicle would expire on December 31, 2003.~~

g) ~~When the rolling stock exemption may properly be claimed, the purchaser should give the seller a certification that the purchaser is an interstate carrier for hire, and that the purchaser is purchasing the property for use as rolling stock moving in interstate commerce. If the purchaser is a carrier, the purchaser must include its Interstate Commerce Commission Certificate of Authority number or must certify that it is a type of interstate carrier for hire (such as an interstate carrier of agricultural commodities for hire) that is not required by law to have an Interstate Commerce Commission Certificate of Authority. In the latter event, the carrier~~

must include its Illinois Commerce Commission Certificate of Registration number indicating that it is recognized by the Illinois Commerce Commission as an interstate carrier for hire. If the carrier is a type that is subject to regulation by some Federal Government regulatory agency other than the Interstate Commerce Commission, the carrier must include its registration number from such other Federal Government regulatory agency in the certification claiming the benefit of the rolling stock exemption. If the purchaser is a long term lessor (under a lease of one year or more in duration), the purchaser must give the seller of the property a certification to that effect, similarly identifying the lessee interstate carrier for hire. The giving of a certification does not preclude the Department from going behind it and disregarding it if, in examining the purchaser's records or activities, the Department finds that the certification was not true as to some fact or facts that show that the purchase was taxable and should not have been certified as being tax exempt. The Department reserves the right to require a copy of the carrier's Interstate Commerce Commission or other Federal Government regulatory agency Certificate of Authority or Illinois Commerce Commission Certificate of Registration (or as much of the certificate as the Department deems adequate to verify the fact that the carrier is an interstate carrier for hire) to be provided whenever the Department deems that to be necessary.

h) Beginning on July 1, 2003 through June 30, 2004, Public Act 93-0023 imposed a new rolling stock exemption test for motor vehicles, trailers, and repair and replacement parts for motor vehicles and trailers.

1) Motor vehicles:

A) For purposes of this Section, the term "motor vehicle" means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code. Because of the commercial distribution fee sales tax exemption provided in Section 130.341 of this Part, purchasers of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code [625 ILCS 5/3-815.1] are exempt from tax regardless of whether those vehicles are used in a manner that qualifies for the rolling stock exemption. All other motor vehicles are subject to the provisions of this Section except that such motor vehicles must meet the following test to qualify as rolling stock instead of the previous test set forth in subsection (f). *A motor vehicle must, during a 12 month period, carry persons or property for hire in interstate commerce for 51 percent of its total trips to qualify for the exemption. [35 ILCS 120/2-51]*

- B) ~~Trips by motor vehicles that are only between points in Illinois are not counted as interstate trips when calculating whether the motor vehicle qualifies for the exemption, but such trips are included in the total trips taken within the 12-month period. The trips that are only between points in Illinois are not counted as interstate trips even if those motor vehicles are transporting, for hire, persons whose journeys or property whose shipments originate or terminate outside of Illinois on other carriers. For an interstate trip to qualify, it must be for hire. However, the total amount of trips taken by a motor vehicle within the 12-month period includes trips for hire and those not for hire. An example of a not for hire trip is when a business uses its truck to transport its own merchandise.~~
- C) ~~Documentation of all trips taken by the motor vehicle in each 12-month period must be maintained and be made available to the Department upon request. Any use of the motor vehicle in a movement from one location to another, including but not limited to mileage incurred by a motor vehicle returning from a delivery without a load or passengers, shall be counted as a trip. However, the movement of the motor vehicle in relation to the maintenance or repair of that motor vehicle shall not count as a trip. Any mileage shown for a motor vehicle that is undocumented as a trip or trips shall be counted as part of the total trips taken by that motor vehicle. The Department shall use its best judgment and information to determine the number of trips represented by such mileage. A trip whereby a motor vehicle or trailer is returning empty from a trip for hire shall be counted as a trip for hire. A trip whereby a motor vehicle or trailer is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip for hire.~~
- D) ~~Examples of application of the 51% trips test:~~
- ~~EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of that property is delivered. The carrier continues to Indianapolis, Indiana and delivers part of that property in that city. The truck then continues to Gary, Indiana and delivers the remainder of the property in that city. The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana. The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If this were all the trips~~

that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would qualify for the test set forth in this subsection (h) for that 12-month period because it made 3 qualifying trips for hire that terminated or originated outside of Illinois and only one intrastate trip, thereby resulting in a percentage of 75% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that first 12-month period would also have qualified for the exemption.

EXAMPLE 2: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered. The carrier then continues to Gary, Indiana and picks up property for use by that carrier's business. The carrier then returns to Chicago, Illinois. The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (h) for that 12-month period because it made no qualifying trips for hire that terminated or originated outside of Illinois.

E) Motor vehicles must continue to be used in a qualifying manner for each consecutive 12-month period subject to the limitations period for issuing a Notice of Tax Liability under the Retailers' Occupation Tax Act [35 ILCS 120/4 and 5]; the Use Tax Act [35 ILCS 105/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); the Service Occupation Tax Act [35 ILCS 115/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act); and the Service Use Tax Act [35 ILCS 110/12] (incorporating Sections 4 and 5 of the Retailers' Occupation Tax Act).

F) When motor vehicles and trailers that are purchased by a lessor, for lease to an interstate carrier for hire, by lease executed or in effect at the time of the purchase are no longer used in a qualifying manner, the lessor will incur Use Tax upon the fair market value of such property on the date that the property reverts to the use of the lessor (i.e., the property is no longer subject to a qualifying lease). However, in determining the fair market value at the time of

~~reversion, the fair market value of such property shall not exceed the original purchase price of the property. The lessor shall file a return with the Department and pay the tax to the Department by the last day of the month following the calendar month [35 ILCS 105/10] in which such property is no longer subject to a qualifying lease. The provisions of this subsection (h)(1)(F) apply equally to owners, lessors or shippers who purchase tangible personal property that is utilized by interstate carriers for hire as rolling stock moving in interstate commerce when such property is no longer used in a qualifying manner.~~

- 2) ~~Trailers—For purposes of this Section, the term "trailer" means a trailer as defined in Section 1-209 of the Illinois Vehicle Code. The test provided in subsection (h)(1) of this Section does not apply to trailers.~~
- 3) ~~Repair and replacement parts for motor vehicles and trailers~~
 - A) ~~Repair and replacement parts for motor vehicles—repair and replacement parts purchased on and after July 1, 2003 must meet the test regarding motor vehicles described in subsection (h)(1) of this Section to qualify for the rolling stock exemption.~~
 - B) ~~Repair and replacement parts for trailers—repair and replacement parts purchased on and after July 1, 2003 are not subject to the test provided in subsection (h)(1).~~
- 4) ~~Application of 51% test to motor vehicles and trailers that are currently in a 12-month period under the 15-trip test~~
 - A) ~~Motor vehicles that were subject to the 15-trip test described in subsection (f) prior to July 1, 2003 will remain subject to the 15-trip test for the remainder of their current 12-month period only if the last 6 months of their 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of that 12-month period began on or after January 1, 2003 and before July 1, 2003, then the new 51% test provided in subsection (h)(1) will apply for such 12-month period. Any 12-month period beginning on or after July 1, 2003 is subject to the 51% test provided in subsection (h)(1).~~
 - B) ~~Trailers that were subject to the 15-trip test described in subsection (f) prior to July 1, 2003 will remain subject to the 15-trip test for the remainder of their current 12-month period only if the last 6~~

months of that 12-month period began on or after January 1, 2003 and before July 1, 2003. If the first 6 months of their 12-month period began on or after January 1, 2003 and before July 1, 2003, then the 15-trip test will no longer apply beginning July 1, 2003.

- i) ~~Beginning on July 1, 2004, Public Act 93-1033 imposed a new rolling stock exemption test for motor vehicles and trailers, and repair and replacement parts for motor vehicles and trailers.~~

1) ~~Motor Vehicles:~~

- A) ~~For purposes of this subsection (i), the term "motor vehicle" means a motor vehicle as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146].~~
- B) ~~Beginning on July 1, 2004, the exemption for motor vehicles used as rolling stock moving in interstate commerce cannot be claimed for motor vehicles whose gross vehicle weight rating is 16,000 pounds or less. Motor vehicles whose gross vehicle weight rating is 16,000 pounds or less that were purchased prior to July 1, 2004 and had qualified for the rolling stock exemption under subsection (f) or (h) of this Section will continue to qualify for the rolling stock exemption as long as those motor vehicles meet the applicable requirements under those subsections until such time as the Department is no longer able to issue a Notice of Tax Liability for the purchase of those motor vehicles. See subsection (e)(1) of this Section.~~
- C) ~~For purchases of motor vehicles made on and after July 1, 2004, a motor vehicle whose gross vehicle weight rating exceeds 16,000 pounds will qualify for the rolling stock exemption if, during a 12-month period, it carries persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period. The person claiming the rolling stock exemption for a motor vehicle must make an election at the time of purchase to use either the trips or mileage method to document that the motor vehicle will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on certification described in subsection (g) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (i)(1)(C),~~

the owner will be deemed to have chosen the mileage method. Once such an election for a motor vehicle has been made, or is deemed to have been made, the method used to document the qualification of that motor vehicle for the rolling stock exemption shall not be changed. [35 ILCS 120/2-51]

D) Documentation of all trips taken by the motor vehicle in each 12-month period must be maintained and be made available to the Department upon request. Any use of the motor vehicle in a movement from one location to another, including but not limited to mileage incurred by a motor vehicle returning from a delivery without a load or passengers, shall be counted as a trip or mileage. However, the movement of the motor vehicle in relation to the maintenance or repair of that motor vehicle shall not count as a trip or mileage. Any mileage shown for a motor vehicle that is undocumented as a trip or trips shall be counted as part of the total trips or mileage taken by that motor vehicle. If the trips method has been chosen for that motor vehicle, the Department shall use its best judgment and information to determine the number of trips represented by such mileage. A movement whereby a motor vehicle or trailer is returning empty from a trip for hire shall be counted as a trip or mileage for hire. A movement whereby a motor vehicle or trailer is moving to a location where property or passengers are being loaded for a trip for hire shall be counted as a trip or mileage for hire. The provisions of subsection (d) of this Section will apply to any trip or mileage that occurs on or after July 1, 2004.

E) Examples of application of the greater than 50% trips test:

EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from Springfield, Illinois to Champaign, Illinois where part of that property is delivered. That property will be delivered by another carrier to a location outside of Illinois. The truck continues to Indianapolis, Indiana and delivers part of that property in that city. The truck then continues to Gary, Indiana and delivers the remainder of the property in that city. The truck then returns empty to Springfield, Illinois from the delivery in Gary, Indiana. The truck is considered to have made a total of four trips (one trip to Champaign, Illinois, one trip to Indianapolis, Indiana, one trip to Gary, Indiana, and a return trip back to Springfield, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made

in a subsequent 12-month period), it would qualify for the test set forth in this subsection (i) for that 12-month period because it made 4 qualifying interstate trips for hire, thereby resulting in a percentage of 100% of its total trips during that first 12-month period. Any repair and replacement parts purchased for the truck during that first 12-month period would also have qualified for the exemption.

EXAMPLE 2: An interstate carrier uses a truck to carry property for hire from Chicago, Illinois to Joliet, Illinois where that property is delivered for use by the recipient. The truck then continues to Gary, Indiana and picks up property for use by that carrier's business. The truck then returns to Chicago, Illinois. The truck is considered to have made a total of three trips (one to Joliet, Illinois, one to Gary, Indiana, and a return trip to Chicago, Illinois). If this were all the trips that the truck made within the first 12-month period after it was purchased (or was all the trips that truck made in a subsequent 12-month period), it would not qualify for the test set forth in this subsection (i) for that 12-month period because those trips resulted in a 0 percentage of qualifying interstate trips for hire.

F) Example of application of the greater than 50% mileage test:

EXAMPLE 1: An interstate carrier uses a truck to carry property for hire from City A in Illinois to City B in Illinois (88-mile movement) where part of that property is delivered. That property will be delivered by another carrier to a location outside of Illinois. The truck continues to City C in Indiana and delivers part of that property in that city (125-mile movement). The truck then continues to City D in Indiana (151-mile movement) and delivers the remainder of the property in that city. The truck then returns empty to City A in Illinois (204-mile movement) from the delivery in City D in Indiana. The truck is considered to have driven a total of 568 qualifying miles. If this were all the miles that the truck drove within the first 12-month period after it was purchased (or was all the mileage that truck drove in a subsequent 12-month period), it would qualify for the test set forth in this subsection (i) for that 12-month period because 100% of its miles were for qualifying interstate movements for hire. Any repair and replacement parts purchased for the truck would also have qualified for the exemption.

EXAMPLE 2: If the truck described above in Example 1 had traveled instead a total of 1568 miles during that 12-month period with 1000 of those miles not being documented as qualifying miles, the truck would not have qualified for the exemption because it only had 568 qualifying miles out of 1568 miles for a 36.22% qualifying percentage. Any repair and replacement parts purchased for the truck would not have qualified for the exemption.

2) Trailers:

- A) ~~For purposes of this Section, the term "trailer" means a trailer as defined in Section 1-209 of the Illinois Vehicle Code; a semitrailer as defined in Section 1-187 of the Illinois Vehicle Code; and a pole trailer as defined in Section 1-209 of the Illinois Vehicle Code. For purchases of a trailer made on or after July 1, 2004, to qualify for the rolling stock exemption the trailer must, during a 12-month period, carry persons or property for hire in interstate commerce for greater than 50% of its total trips for that period or for greater than 50% of its total miles for that period.~~
- B) ~~Except as provided in subsection (i)(2)(C), purchasers of trailers must make an election at the time of purchase to use either the trips or mileage method to document that those trailers will be used in a manner that qualifies for the exemption. If the purchase is from an Illinois retailer, the election must be made on certification described in subsection (g) of this Section. If the purchase is from an out-of-State retailer or from a non-retailer, the election must be documented in the purchaser's books and records. If no election is made as required under the provisions of this subsection (i)(2)(B), the owner will be deemed to have chosen the mileage method.~~
- C) Beginning on July 1, 2004, the owner of trailers that are dedicated to a motor vehicle, or group of motor vehicles, may elect to alternatively document the qualifying use of those trailers in the following manner:
 - i) if a trailer is dedicated to a single motor vehicle that qualifies under subsection (i)(1) of this Section, then that trailer will also qualify for the exemption;

- ii) ~~if a trailer is dedicated to a group of motor vehicles that all qualify under subsection (i)(1) of this Section, then that trailer will also qualify for the exemption; or~~
- iii) ~~if a group of trailers is dedicated to a group of motor vehicles and not all of those motor vehicles in that group qualify under subsection (i)(1) of this Section, then the percentage of those trailers that qualify for the exemption is equal to the percentage of the motor vehicles in the group that qualify for the exemption. However, the mathematical application of the qualifying percentage to the group of trailers will not be applied to any fraction of a trailer. If the owner of the trailers chooses to use the method provided under this subsection (i)(2)(C)(iii), any trailer or group of trailers that is not considered to qualify for the exemption under the mathematical application of the qualifying percentage will not qualify for the exemption even if documentation for a specific trailer or trailers in that group is provided to show that such a trailer or trailers would have met the test in subsection (i)(2) of this Section.~~

~~D) For purposes of this subsection (i), the phrase "dedicated" means that the trailer or trailers are used exclusively by a specific motor vehicle or specific group or fleet of motor vehicles.~~

~~EXAMPLE 1: A trucking company owns 2 trailers that are dedicated to (used exclusively by) the company's 2 trucks. Both these trucks meet either the greater than 50% trips or greater than 50% mileage test for the appropriate 12-month periods. Both the trailers will be considered to have met the requirements for the exemption during those periods.~~

~~EXAMPLE 2: A trucking company owns 30 trailers. All of those trailers are dedicated to (used exclusively by) a subsidiary company's 20 truck fleet. Only 19 of those 20 trucks meet either the greater than 50% trips or greater than 50% mileage test for the appropriate 12-month periods. The qualifying percentage for the group of trucks for which all of the trailers are dedicated is 95%. The application of the 95% qualifying percentage to the 30-trailer group would represent 28.5 trailers. Because no fraction of a trailer may qualify under the mathematical application of the qualifying percentage, only 28 of the 30 trailers will be considered~~

to have met the requirements for the exemption during those periods.

3) **Repair and Replacement Parts:**

The rolling stock exemption may be claimed for purchases of repair and replacement parts that are incorporated into motor vehicles and trailers that meet the rolling stock test that is applicable for the 12-month qualifying period in which the purchase of the repair or replacement parts occurred and each consecutive 12-month qualifying period thereafter.

j) **Application of Rolling Stock Test**

1) **Motor Vehicles and Trailers**

The test applicable to the purchase of a motor vehicle or trailer will depend upon the test in effect for the first 12-month qualifying period for that motor vehicle or trailer. For motor vehicles and trailers, the test in effect for the first 12-month qualifying period for that motor vehicle or trailer will remain the test for the remaining 12-month qualifying periods for any time for which a Notice of Tax Liability may be issued in regards to the purchase of that motor vehicle or trailer. See subsection (e) of this Section in regards to when Notices of Tax Liability may be issued. A change in the rolling stock test in a subsequent 12-month qualifying period will not change the test for the exemption from tax for the purchase of that motor vehicle or trailer. However, a change in the rolling stock test in a subsequent 12-month qualifying period will impact the test used in regards to purchases of repair and replacement parts for that motor vehicle or trailer. See subsection (i)(4)(B).

EXAMPLE: A motor vehicle is purchased on October 1, 2003 and is licensed and titled on that date. The motor vehicle's first 12-month qualifying period begins on October 1, 2003 and runs through September 30, 2004. The rolling stock test applicable to that motor vehicle for its first 12-month qualifying period is the test set out in subsection (h) of this Section. That test will remain in effect for all subsequent 12-month qualifying periods until such time as the Department is no longer able to issue a Notice of Tax Liability in regards to the purchase of that motor vehicle. The change in the rolling stock test set out in subsection (i) of this Section has no impact on the tests applied to the motor vehicle's subsequent 12-month qualifying periods for purposes of claiming the exemption on the purchase of that motor vehicle.

2) **Repair and Replacement Parts**

The test applicable to the purchase of repair and replacement parts for a motor vehicle or trailer that is used as rolling stock will depend upon the test in effect during the motor vehicle's or trailer's 12-month qualifying period in which the purchase of the parts was made. If the rolling stock test is changed during a 12-month qualifying period, the test for parts purchased in that 12-month qualifying period will be the test in effect during the majority of that 12-month qualifying period as described in the following chart. See subsections (j)(2)(A)-(C). Repair and replacement parts purchased during a specific 12-month qualifying period will remain subject to the test for that period and subsequent 12-month qualifying periods for any time for which a Notice of Tax Liability may be issued in regards to the purchase of that motor vehicle or trailer. See subsection (e) of this Section in regards to when Notices of Tax Liability may be issued. For ease of referencing the changes in the rolling stock tests, the following rolling stock tests described in the specified subsections will be referred to as:

subsection (f)–	15 trips test
subsection (h)–	51% trips test
subsection (i)–	greater than 50% trips or miles test

A) Prior to January 1, 2003:

If a motor vehicle's or trailer's 12-month qualifying period starts prior to January 1, 2003, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the 15 trips test set out in subsection (f) of this Section.

B) On or after January 1, 2003 but before January 1, 2004:

If a motor vehicle's or trailer's 12-month qualifying period starts on or after January 1, 2003, but before January 1, 2004, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the 51% trips test set out in subsection (h) of this Section.

C) On or after January 1, 2004:

If a motor vehicle's or trailer's 12-month qualifying period starts on or after January 1, 2004, the test that is applicable for purchases of all parts made during that 12-month qualifying period is the greater than 50% trips or miles test set out in subsection (i) of this Section.

- k) Public Act 95-0528 provides that limousines, purchased on or after August 28, 2007, that would not otherwise qualify for the rolling stock exemption because of the 16,000 pound gross vehicle weight rating limitation described in subsection

~~(i)(1)(B) of this Section, may qualify for the rolling stock exemption if the use of the vehicle otherwise meets the requirements set out in subsection (i) of this Section. This subsection (k) applies only to limousines, as defined in Section 1-139.1 of the Illinois Vehicle Code.~~

(Source: Amended at 47 Ill. Reg. _____, effective _____)